



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,926	01/18/2001	Tom Fristoe	25118.00400	7423

7590

09/09/2005

John W. Carpenter
CROSBY, HEAFEY, ROACH & MAY
P.O. Box 7936
San Francisco, CA 94120-7936

EXAMINER

HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
----------	--------------

2614

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/765,926

Applicant(s)

FRISTOE ET AL.

Examiner

Michael W. Hoyer

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed on January 18, 2005 have been fully considered but they are not persuasive.

Regarding independent claim 1, the Applicants argue on page 18 of the Remarks section that, "Collins-Rector fails to teach or suggest a basic video player in a template. ... [I]n Collins-Rector, only an HTML page including a frame designated for referencing a player is described. ... Collins-Rector does not discuss the video player as being a part of the template..."

The Applicants also argue in the last paragraph on page 18 that, "Applicants admit that Collins-Rector's HTML page constructs a frame intended to display movie content (e.g., by linking to a separate player). However, an HTML frame that references an external movie player even though it is intended to display movie content does not constitute a movie player. As claimed in Claim 1, Applicants' template comprises a basic movie player. In contrast, Collins-Rector only references a player separate from Collins-Rector's HTML page. Further, although a link to a movie player is a standard HTML practice, the inclusion of a movie player itself, such as Quick Time, in an HTML page is not, nor does Collins-Rector provide any discussion that suggests the same."

In response the Examiner respectfully disagrees with the Applicants because the claimed "template comprising a basic movie player" is specifically met by providing an interactive video experience using web pages by utilizing a JavaScript and frames capable web browser which uses a QuickTime 3 or similar browser plugin (see col. 1, lines 65-67; col. 2, line 63 – col. 3, line

Art Unit: 2614

11 and lines 25-27; and col. 4, lines 5-12). The template is met by the HTML page and the frames as displayed by the web browser shown in Fig. 2, which further comprises a movie/video player as met by the QuickTime 3 or similar browser plugin that is part of the web browser.

The Applicants argue on page 19 that, “saving Collins-Rector’s HTML of frames (e.g. Fig. 2) in no way saves the player, as the player is an entirely separate program not included in Collins-Rector’s HTML frames.”

In response the Examiner notes that the Collins-Rector reference discloses in col. 3, lines 2-6 that, “As is well known in the art, JavaScript and frames capable web browsers execute as a program in a personal computer...”, and as previously described above in col. 2, lines 63-67, the JavaScript and frames capable web browser have a QuickTime 3 or similar browser plugin for handling the video/movie information for display within a page.

The Applicants also respectfully traversed the Official Notice previously taken by the Examiner.

In response the Examiner has incorporated the Hurwitz (USPN 6,256,669) reference, previously cited by the last Examiner of record, into the rejection, which teaches the use of a content handler which analyzes the bandwidth characterization provided by the Web browser in order to determine the connection speed (see col. 5, line 40 – col. 6, line 5). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the Collins-Rector reference with the Hurwitz reference for the advantage of producing media content at the highest quality or fastest connection speed that the player is capable of.

Art Unit: 2614

Regarding claim 7, the Applicants' arguments are moot because of the addition of the Hurwitz reference used in combination with the Collins-Rector reference, as described above in relation to claim 1.

Regarding claim 8, the Applicants' arguments are moot because of the addition of the Hurwitz reference used in combination with the Collins-Rector reference, as described above in relation to claim 1.

Regarding claim 11, the Examiner refers to the relevant remarks made above for claim 1 and has provided an additional reference (the RealPlayer 8 Plus User Manual) as described in the rejection below for the newly added claim limitation.

Regarding claim 16, the Examiner refers to the relevant remarks made above for claim 1.

Regarding claim 17, the Examiner refers to the relevant remarks made above for claim 1. In addition, the Applicants note that the amended claim 17 further comprises the step of: "repeating the steps of accessing, applying a set of supplier tracks, applying a set of user/e-tailer tracks, and saving for each of a plurality of connection speeds;" and "serving a selected on of the players based on a master movie request received from a user's content player." The Applicants then argue that, "neither Collins-Rector nor Chang teach or suggest a similar structure..."

In response to the Applicants' argument above, the Examiner respectfully notes that listing of the claims filed on 1/18/05 has claim 17 listed as "original" with no amendment to claim 17 given. The Examiner is unsure as to whether or not the Applicants intended to amend claim 17 in light of the Applicants' arguments.

If it was the Applicant's intent to amend claim 17, the Examiner submits that, in response to the Applicants' argument that the references fail to show certain features of applicant's

Art Unit: 2614

invention, it is noted that the features upon which the Applicants rely (i.e., “repeating the steps of accessing, applying a set of supplier tracks, applying a set of user/e-tailer tracks, and saving for each of a plurality of connection speeds,” and “serving a selected on of the players based on a master movie request received from a user’s content player.”) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 18, the Examiner refers to the relevant remarks made above for claim 1.

Regarding new independent claim 27, the Applicants’ argument is moot based on the new grounds of rejection given below.

Claim Objections

2. Claim 11 is objected to because of the following informalities: in the second to last line of the claim the word “speed” should be --speeds--. Appropriate correction is required.

Claim 23 is objected to because of the following informalities: in the 3rd line of the claim the word “form” should be --from--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Art Unit: 2614

4. Claims 27-33 are rejected under 35 U.S.C. 102(a) as being anticipated by the RealPlayer 8 Plus User Manual, cited by the Examiner.

As to claim 27, note the RealPlayer 8 Plus User Manual which discloses the claimed method comprising the steps of receiving a rich media request from an end user computer system via a syndicated link as met by clicking on a link in a Web page (see Fig. 6-6 and pgs. 49-50). The claimed building a master movie based on the rich media request is met by creating and encoding a presentation based on the user request (see pgs. 47-53 and Fig. 6-8 for example). The claimed uploading the master movie to the end user computer system is met by the RealServer sending the appropriate streams (see pgs. 47-53). The claimed building a plurality of movie players each constructed for different predetermined connection speeds is met by every clip, or every stream in a clip, is encoded for a specific bitrate and by using SMIL (Synchronized Multimedia Integration Language) to control how complex media presentations should be streams to and laid out within the RealPlayer (see pgs. 47-53, specifically 47 and 52). The claimed receiving a connection speed request from the uploaded master movie is met by communicating with the RealServers so that the servers can pick the appropriate encoded streams to send to the user computer system or RealPlayer (see pgs. 50-51). The claimed selecting one of the plurality of movie players matching the received connection speed is met by the servers picking the appropriate encoded streams to send to the user computer system or RealPlayer as described above. The claimed uploading the selected movie player to the end user computer system and serving the requested rich media to the uploaded movie player is met by the RealServer sending the presentation player for the selection of streams encoded at a bitrate as described above, where the RealServer sends the streams of rich media to the RealPlayer.

As to claim 28, the claimed step of building a master movie is performed on-the-fly after receipt of the rich media request is met by the process of encoding a file (see pgs. 47-53).

As to claim 29, the claimed step of building a plurality of movie players is performed on-the-fly after receipt of the rich media request and initiated prior to receiving the connection speed request from the uploaded master movie is met by pages 47 and 50-53, where the players are selected based on what types of streams are required by the rich media request and the streams are encoded at various bitrates.

As to claim 30, the claimed master movie determines the connection speed to request based only on performance measurements of the end user computer system is met by pages 50-51, where the bitrate or connection speed is determined based on the setup or performance of the end user computer system.

As to claim 31, the claimed steps of uploading a master movie and building a plurality of movie players are performed in response to the rich media request is met by pages 49-52 (specifically pages 49 and 52), where a master movie or video is sent to the user system upon selection by a user and a plurality of players are put together in response to the request (see Fig. 6-8 for example).

As to claim 32, the claimed movie players are fitted into a template including track locations is met by Fig. 6-8 on page 52; and the claimed step of building comprises, determining a set of tracks based on referenced criteria; and applying the determined set of tracks to the template is met by the control of SMIL (see pages 52-53 and Fig. 6-8).

As to claim 33, the claimed method according to Claim 32, wherein the set of criteria comprises timing for special offers associated with the tracks is met by some of the selections in

Art Unit: 2614

Fig. 4-2 on page 21 and the text of pages 21 and 52, where special offers may be presented to the user to select and the offers may be synchronized with the display of clips according to the SMIL.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-10, 20 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins-Rector et al (USPN 6,188,398), in view of Hurwitz (USPN 6,256,669), both cited by the Examiner.

Regarding Claim 1, Collins-Rector discloses a method of producing a rich media player on the fly comprising the steps of accessing a predefined template comprising a basic movie player is specifically met by providing an interactive video experience using web pages by utilizing a JavaScript and frames capable web browser which uses a QuickTime 3 or similar browser plugin (see Fig. 2; col. 1, lines 65-67; col. 2, line 63 – col. 3, line 11 and lines 25-27; and col. 4, lines 5-12). The template is met by the HTML page and the frames as displayed by the web browser shown in Fig. 2, which further comprises a movie/video player as met by the QuickTime 3 or similar browser plugin that is part of the web browser. The claimed having track locations is met by frames 31, 33, 35 and 37. Further disclosed is applying a set of selected tracks to the track locations of the template (col. 4, lines 5-14) and saving the player in a

Art Unit: 2614

place accessible when the player is needed is met by col. 3, lines 2-6, which states that, "As is well known in the art, JavaScript and frames capable web browsers execute as a program in a personal computer...", and as previously described above in col. 2, lines 63-67, the JavaScript and frames capable web browser have a QuickTime 3 or similar browser plugin for handling the video/movie information for display within a page. What is not disclosed, however, is that the movie player is designated to operate at a predetermined connection speed and the content matching the player's connection speed is played. Hurwitz teaches the use of a content handler which analyzes the bandwidth characterization provided by the Web browser in order to determine the connection speed (see col. 5, line 40 – col. 6, line 5). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the Collins-Rector reference with the Hurwitz reference for the advantage of producing media content at the highest quality or fastest connection speed that the player is capable of in order to maximize the video quality without unnecessary skipping/buffer under-runs.

Regarding Claim 2, Collins-Rector discloses a method as stated above in Claim 1 wherein the track location of the template is a promotion track location (col. 2, lines 33-44 and Figure 2, 33 and 35). Promotional tracks are selected in accordance with the video that is playing (col. 2, lines 46-50). This reads on the claimed selected track being a promotional track. The promotional tracks are placed in the track locations (col. 5, lines 6-15). The promotional track is linked to pages of additional information associated with the promotional track (col. 5, lines 1-2), which is received by the user.

Regarding Claim 3, Collins-Rector discloses a method as stated above in Claim 2, further comprising synchronizing ads with video as it is playing and updating content (col. 2, lines 39-

Art Unit: 2614

54). This reads on the claimed receiving a set of parameters indicating when the promotion track is to be active. The ads are displayed in synch with video content being displayed as stated above. This reads on the claimed building the players consistent with the parameters. Ads are updated to they change as more information is available about the user or new ads as they are produced, as stated above. This reads on the claimed rebuilding the player to include promotional tracks when they become active. Further, old ads are replaced by new ads, and the old ads appear as a thumbnail list in a different window (col. 4, lines 63-67). This reads on the claimed rebuilding the player to remove promotional tracks when they have become inactive.

Regarding Claim 4, Collins-Rector in view of Hurwitz discloses a method as stated above in Claim 3 further comprising the step of performing the steps of rebuilding if the promotional track has become active or inactive as stated above in Claim 3. Collins-Rector further discloses displaying an ad when a video player is requested to play (col. 4, lines 52-55). What is not disclosed, however, is checking the validity of a promotional track used in a player when the player is requested to play. Official Notice is hereby taken that it was well known in art at the time the invention was made to check the validity of a piece of data before displaying it. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector as combined with Hurwitz with the data validity checking of the well-known prior art in order to alert the user if an image file is corrupt or unavailable.

Regarding Claim 5, Collins-Rector discloses a method as stated above in Claim 3 further comprising the step of updating ads in synchronization with content (col. 2, lines 39-54). This reads on the claimed repeating the rebuilding at a predetermined time interval.

Regarding Claim 7, Collins-Rector in view of Hurwitz further comprises the step of placing web pages on a web server for a user to access (col. 4, lines 14-15). It is inherent that in order to access the pages, a user must send a request to the web server from their browsing software. This reads on the claimed receiving a request for rich media content from a content viewer. A web page framework (See Figure 2) is subsequently downloaded. This reads on the claimed downloading a master movie to the content viewer corresponding to the rich media content requested. The web page contains a frame referencing a video clip to be displayed (col. 4, lines 5-10). In order to display this video clip referenced from the web page, a request must be made to the server. A connection speed of the content viewer is determined as stated above in Claim 1 through the combination of the Hurwitz reference. This reads on the claimed receiving a request from the master movie (URL of the embedded video in the frame) indicating rich media content matching the rich media request and a connection speed of the content viewer.

Regarding Claim 8, Collins-Rector in view of Hurwitz discloses a method as stated above in Claim 7. The Hurwitz reference further discloses the claimed connection speed is determined by the master movie (web page framework/content handler) by reading a profile (bandwidth characterization provided by the Web browser) on the host machine used by the content viewer.

Regarding Claim 9, Collins-Rector in view of Hurwitz discloses a method as stated above in Claim 7. The claimed connection speed is determined by the master movie by performing the steps of downloading a predetermined file from a server and calculating the connection speed using the file size and time required to download the file is met by Hurwitz as described above which further discloses a method for characterizing the bandwidth available to the user of a web browser by downloading media data and calculating the elapsed time to determine the number of

bytes per second received (col. 4, lines 42-57). Hurwitz provides additional evidence that ordinary workers in the art would recognize the benefits of downloading a predetermined file from a server to calculate available bandwidth. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector with the bandwidth measurement of Hurwitz in order to accurately determine the correct bit-rate of a media asset without relying on user intervention to make the determination.

Regarding Claim 10, Collins-Rector in view of Hurwitz discloses a method as stated above in Claim 1, wherein at least one of the track locations is a buy button track location (col. 2, lines 22-29). Displaying the button reads on the claimed applying a buy button track to the buy button track location. The button is linked to another page to display more information, initiate a purchase or display a form to complete (col. 5, lines 2-5). What is not disclosed is linking a back end application configured to add an item to the viewer's shopping cart to the buy button.

Official Notice is hereby taken it was well known in the art at the time the invention was made to provide a link to a shopping cart application. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector as combined with Hurwitz with the shopping cart of the well-known prior art in order to allow a user to continue to shop for other items and purchase them all at once using a well-known and friendly interface.

Regarding Claim 20, Collins-Rector in view of Hurwitz discloses a method as stated above in Claim 1, wherein a web page is transmitted to a user's web browser as stated above. This reads on the claimed electronic signal being transmitted, propagating through a medium and

Art Unit: 2614

received. It is inherent that such digital data be decoded from bit patterns in order to be properly rendered. The data comprises a rich media player (See Figure 2).

As to claim 22, the claimed saved player comprises an entire solution for playing the movie and displaying the applied tracks on a computer without reference to movie players resident on the same computer or elsewhere is inherent to the system of Collins-Rector as combined with Hurwitz as described above in claim 1, wherein the saved player is an entire solution for playing the movie and the player does not need to reference other movie players resident on the same computer or elsewhere.

As to claim 23, the claimed steps of accessing, applying, and saving occur on-the-fly after receipt of a rich media request from an end user computer system is met by the system of Collins-Rector as combined with Hurwitz as described above in claim 1.

7. Claims 6, 16-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins-Rector et al, in view Hurwitz, in further view of Chang et al (USPN 6,715,126), all cited by the Examiner.

Regarding Claim 6, Collins-Rector as combined with Hurwitz discloses a method as stated above in Claim 1, wherein the step of applying comprises applying a set of user/e-tailer selected tracks to the track locations of the template. These user/e-tailer tracks are advertisements that correspond to the programming as stated above. What is not disclosed, however, is applying a set of supplier-selected tracks to the track locations of the templates. Chang discloses a method for delivering media content over the web with synchronized images or events including applying a set of supplier-selected tracks to the track locations of the

Art Unit: 2614

templates (See Figure 4). In this case, the supplier-selected tracks are logos such as the “Powered by HotAudio” logo. Chang is evidence that one of ordinary skill in the art at the time the invention was made would recognize the benefit of applying a supplier-selected track to the track location of a web page. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector and Hurwitz with the supplier logos of Chang in order to promote a supplier’s product for greater revenue opportunities.

Regarding Claims 16-17, see Claims 1-2 and 6 above.

Regarding Claim 19, Collins-Rector et al, in view Hurwitz, in further view of Chang disclose a method as described above in claim 17. Chang further discloses a rich media player customized for each of a supplier and e-tailer (See Figure 3), wherein the player/data is delivered (cols. 4-5, lines 66-3) over a communication link (col. 4, lines 61-66). It is inherent that video and audio player/data (col. 5, line 30) be decoded from bit patterns in order to be properly rendered to comprise a rich media player (See Figure 4) customized for each of a supplier and e-tailer.

Regarding Claim 18, see Claims 1-2, 6 and 10 above.

Regarding Claim 21, see Claims 18 and 20 above.

8. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins-Rector et al, in view of Chang et al (USPN 6,715,126), in further view of the RealPlayer 8 Plus User Manual, all cited by the Examiner.

Regarding Claim 11, Collins-Rector discloses a device for serving rich media content to a content viewer as stated above comprising an application server having a first user interface program (col. 5, lines 7-15) configured to retrieve assets and tracks for accessory links and control buttons from a supplier (See Figure 2). Further disclosed is a web browser (col. 2, lines 64-65), which reads on the player application configured to build a player device using the supplier supplied tracks (See Figure 2). A web server is also disclosed (col. 4, line 15) for serving data, as is well known in the art, to the web browser. This reads on the claimed web server configured to serve a player (See Figure 2) built by the player application (web browser). Also disclosed is the use of a streaming server (col. 3, lines 25-27) such as QuickTime, Netshow, or Real Networks to stream content requested by a content viewer as stated above to be viewed by a player built by the player application. What is not disclosed, however, is retrieving assets from a supplier. Chang discloses a method for delivering media content over the web with synchronized images or events including applying a set of supplier-selected tracks to the track locations of the templates (See Figure 4). In this case, the supplier-selected tracks are logos such as the "Powered by HotAudio" logo. Chang is evidence that one of ordinary skill in the art at the time the invention was made would recognize the benefit of applying a supplier-selected track to the track location of a web page. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector with the supplier logos of Chang in order to promote a supplier's product for greater revenue opportunities. In addition to, the claimed "wherein the player served by the web server is selected from a plurality of different speeds but similarly configured players based on a master movie request from a recipient user device to which the stream content is served" is not

Art Unit: 2614

explicitly disclosed by the Collins-Rector reference or the Chang reference. However, both reference disclose the use of various type of players and methods for delivery, including the use of QuickTime, Microsoft Media Player & NetShow, and Real Networks (see col. 2, line 63 – col. 3, line 27 of Collins-Rector and col. 2, lines 36-41 and line 56 – col. 3, line 3 of Chang), and the RealPlayer 8 Plus User Manual published by RealNetworks further discloses or teaches the claimed player served by the web server is selected from a plurality of different speeds but similarly configured players based on a master movie request from a recipient user device to which the stream content is served, where RealPlayers and RealServers can communicated with each other so that RealServers use the appropriate streams to send to the player. RealPlayer sends the bandwidth settings to the RealServer, and the RealServer automatically selects the streams encoded at a bitrate closest to the setting provided. Improvements in the RealSystem technology have even provided streams that may be encoded for multiple different bitrates, where content providers (who provide the master movie requested by a user) may select what streams are more important for a better quality presentation, where automatic upshifts and downshifts may be made in the bitrates of the streams sent from a server to provide a higher quality presentation to the user (see pages 45-65, specifically pages 49-53, 62 and 65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified Collins-Rector and Chang with the additional teachings provided by the RealNetworks Manual as described above for the advantage of providing movies to user devices at a plurality of different speeds depending on the request made from a user device. One of ordinary skill in the art would have been led to make such a modification since it is well known to those of ordinary skill in the art as stated above to serve multiple streams of

media content from a server at multiple bitrates in order to provide the streams of media to users at different speeds.

Regarding Claim 12, Collins-Rector as combined with Chang and the RealPlayer Manual disclose a device as stated above in Claim 11. Collins-Rector further discloses a program configured to retrieve at the control buttons and accessory links as stated above in Claim 12. The data represents advertisements from a user/e-tailer as stated above. This reads on the claimed second user interface program configured to retrieve control buttons and accessory links from a user/e-tailer and configured to build the player using the retrieved tracks (See Fig. 2).

Regarding Claim 13, as best understood by the Examiner, Collins-Rector as combined with Chang and the RealPlayer Manual disclose a device as stated above in Claim 11. Collins-Rector further discloses supplier tracks including a promotional track that is time synchronized to content being displayed (col. 4, lines 5-10). This reads on the claimed at least one valid time frames for the promotional tracks. Further disclosed is adding an advertisement in response to content being displayed in the video (col. 2, lines 52-54) and removing the advertisement from the main window (col. 4, lines 63-67). This reads on the claimed building the player with the promotional track if the promotion is valid at the time the player is built and building the player without the promotional track if the promotion is not valid at the time the player is built.

Regarding Claim 14, Collins-Rector as combined with Chang and the RealPlayer Manual disclose a device as stated above in Claim 13. As stated above, the player is operable to update advertisements while the video is playing in order to synchronize ads with content (col. 4, lines 5-10). This reads on the claimed application server further comprising a check program that periodically checks the validity of the promotional tracks (ads) in the players (web page, see

Figure 2) built by the player application based on the valid time frames (col. 2, lines 44-50) corresponding to the promotional tracks being checked and rebuilds (col. 2, lines 39-54) any players having invalid (old) promotional tracks so that the rebuilt players promotional tracks are valid (synchronized with current content).

Regarding Claim 15, Collins-Rector as combined with Chang and the RealPlayer Manual disclose a device as stated above in Claim 12. Collins-Rector further discloses clicking on the ad to initiate a purchase of a product. This reads on the claimed tracks retrieved from the user/e-tailer include a buy now button. As stated above, the advertisements relate to content being viewed by the player. What is not disclosed is a back end application configured to add an item to the viewer's shopping cart on a user/e-tailer's web site associated with a content viewer running a player built by the application builder. Official Notice is hereby taken it was well known in the art at the time the invention was made to provide a link to a shopping cart application at a user/e-tailer's web site. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Collins-Rector in view of Chang in further view of the RealPlayer 8 Plus User Manual with the shopping cart of the well-known prior art in order to allow a user to continue to shop for other items and purchase them all at once using a well-known and friendly interface.

9. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the RealPlayer 8 Plus User Manual.

As to claims 34-35, the claimed method according to Claim 32 is rejected by the RealPlayer 8 Plus User Manual as described above. The claimed syndicated link is syndicated

Art Unit: 2614

across a plurality of e-tailers each offering a product highlighted in the requested rich media; and the referenced criteria upon which the set of tracks is determined comprises the e-tailer whose syndicated link made the rich media request; and, the claimed wherein at least one of the set of tracks include an offer and/or information specific to the requesting e-tailer are not explicitly disclosed by the RealPlayer 8 Plus User Manual. However, the Examiner takes Official Notice that it is notoriously well known in the art of computer networks that provide rich media content selections to provide e-tailers that offer a product highlighted in the rich media as stated above, and to further include an offer and/or information specific to the product for the advantage of providing product offers to a computer user through rich media where the product highlighted is related to the rich media content that the user has selected and may be synchronized with portions of the media content. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have provided rich media content selections to provide e-tailers that offer a product highlighted in the rich media as stated above, and to further include an offer and/or information specific to the product for the advantages given above.

Allowable Subject Matter

10. Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Art Unit: 2614

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Goetz et al (USPN 5,928,330) – Discloses a system, device and method for streaming a multimedia file.

Goetz et al (USPN 5,956,729) – Discloses a system, device and method for streaming a multimedia file.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

Or faxed to: 571-273-8300

Hand-delivered responses should be brought to the Customer Service Window at the address listed above.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Art Unit: 2614

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael W. Hoye
August 25, 2005



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600